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April 15. The address of the Secretary of the Association is 220 Devonshire Street, Boston.

The report has been widely circulated that the Harvard Law School tried and failed to secure the entire library of the late N. C. Moak, Esq., which is to go to Cornell. There is no truth in this. The School did not make any such effort, because by far the greater part of Mr. Moak's library — in particular the foreign and colonial reports — would have duplicated what is either already on the shelves at Cambridge, or is to be there very shortly.

Among the acquisitions picked up in England this summer by Mr. Arnold is a set of English, Scotch, and Irish peerage reports, which, with one exception, is probably the most complete in existence. It numbers about three hundred volumes, many of them in manuscript.

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Damages for Mental Suffering. — In view of the progress that has been made in recent years in clarifying the subject of damages for mental suffering and extending their scope, it is a disappointment to find the latest case (Chapman *v.* Western Union Tel. Co., 46 Alb. Law J. 409) losing sight of fundamental distinctions which seemed to be at last clearly established. The plaintiff in this Georgia case is the sendee of a telegram which informed him of the desperate illness of his brother, and requested him to come. The message was delayed, in consequence of which the brother died before the plaintiff's arrival, and this action is for the statutory penalty plus damages for mental suffering. To so much of the petition as relates to damages for mental suffering the defendant demurs, and the Supreme Court holds that the demurrer was rightly sustained, — properly enough, since in Georgia failure to deliver a telegram is not in itself, apart from the statutory penalty, a cause of action for the sendee; and mere suffering, whether mental, physical, or pecuniary, gives no right to recompense unless some right is infringed.

But the court is not satisfied merely to decide the case. They go on to deny the existence of any general rule allowing damages for mental suffering. They explain the cases where such damages were allowed by the old law, such as assault and false imprisonment without contact, on the ground that the offence in these cases is wilful, and the damages punitive. They then cite cases denying the right to recover for mental suffering in cases much like the one at bar. Undoubtedly the old law would have precluded damages for mental suffering in such a case, even if there had been a right of action, — as there would have been if the plaintiff and sufferer had been the sendor. If they had followed this older rule with a clear understanding of the ground on which the rule that is now so widely adopted rests, we could find fault only with their judgment.

Why go on, however, with objections that have been answered with the greatest clearness, perhaps nowhere more clearly than in a book they quote themselves, only to misunderstand, — Sedgwick on Damages. "In Lynch *v.* Knight, 9 H. L. Cas. 557, Lord Wensleydale expressed the opinion that when the only injury is to the feelings, the law does not pretend to give redress. Though Mr. Sedgwick (Dam. § 43 *et seq.*) seeks to restrict this language to the case then before the court, and disputes its accuracy as a general proposition, it may be doubted whether the learned author is

able to cite a single case sustaining his contention. He does refer to a number of cases, but in all of them the pain may be viewed as an accompaniment or part only of some substantial injury entitling the party to compensation." Of course that is exactly what the text-writer says, if "substantial" be left out; and if that adjective be emphasized, the statement is untrue; as in many of the recent telegraph cases the only large element of damages is mental suffering.

The court then indulges in some more general criticisms. "How much mental suffering shall be necessary to constitute a cause of action? Let some of the courts favoring recovery measure out the quantity." The courts all admit that an infinite quantity of suffering of any kind cannot in itself constitute a cause of action. It seems hopeless to hammer at a distinction so clear as the difference between the proposition that the infringement of an actionable right should be compensated by damages for all the proximate injury of any kind resulting to the person whose right is infringed, and the untenable proposition the court mixes up with it, that suffering alone can constitute a cause of action. The Georgia court seems to have seen this distinction just clearly enough to explain how completely they misunderstood it: "It is said there must be an infraction of some legal right, attended with mental suffering, for this kind of damages to be given. If this be true law, why is not the mental distress always an item to be allowed for in the damages?" Why not indeed? That is just what the new rule is. "Throwing away the lame pretence of basing recovery for mental suffering upon an otherwise harmless transgression, and stripping it of all false form and confusing technicality, it is manifest that to allow such a recovery is, in real substance, an effort to protect feeling by legal remedy." Truly it is; but as long as our law is what it has always been, we must grope with such "confusing technicality" as the difference between the presence and the absence of a right infringed. The failure of the court to seize this concept at a time when it is so important, so much noticed, and so clearly explained in the authorities cited by the court itself, is matter for surprise. It is perhaps unlikely that these elaborate *dicta* will be followed in Georgia. The nearest prior case in the State is one allowing damages for physical suffering. *Cooper* v. *Mullins*, 30 Ga. 146.

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THE TRUE LIABILITY OF A MANUFACTURER FOR LATENT DEFECTS. — The Supreme Court of Minnesota have recently decided, in the case of *Schubert* v. *J. R. Clark Co.*, 5 N. W. Rep. 1103, that a manufacturer who, through retail merchants, puts on the market an article which to his knowledge contains latent defects liable to cause injury, must answer for injury caused by his negligence to one into whose hands the article naturally comes for use, even though there be no contract relation between the latter and the manufacturer.

On this question, both in England and the United States, there is a peculiar conflict between authority and principle. In the much overworked case of *Winterbottom* v. *Wright*, 10 M. & W. 139, the Court of Exchequer do not say that if the declaration had stated a breach of duty to the plaintiff, rather than a breach of a contract with a third person, the decision would have been in favor of the defendant. In the case of *George* v. *Skivington*, L. R. 6 Exch. 1, the judges simply